

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

FRANKLIN CONSTRUCTION GROUP, LLC,

Plaintiff,

v.

Civil Action No. 3:24-cv-01255

WILLIAM SHORE; JWSC, LLC;
KEITH MEADOWS; JOSEPH HEATH;
HYDS INC.; DEAN BINGHAM;
LUNDON JOHNSON; TYLER WEBER
JOEL CHEVRETTE; DANNY KNOWLES;
SCOTT MATTHEWS; and LOWE'S HOME
CENTERS, INC.,

Defendants.

**DEFENDANT JOSEPH HEATH'S MOTION TO DISMISS
FRANKLIN CONSTRUCTION GROUP, LLC'S COMPLAINT**

COMES NOW, Defendant Joseph Heath ("Defendant" or "Heath"), by and through counsel, and respectfully moves this Court to dismiss Franklin Construction Group, LLC's ("Plaintiff") causes of action against Defendant per Federal Rules of Civil Procedure 12(b)(6), as follows:

1. Plaintiff, Franklin Construction Group, LLC., filed its Complaint against Joseph Heath on October 21, 2024. In its Complaint, Plaintiff makes a series of broad and conclusory allegations against twelve different entities and individuals, and seeks damages for an alleged elaborate fraud scheme, concocted by Defendant William Shore, Plaintiff's Vice-President of Residential Construction Operations, to overcharge Plaintiff and profit off the difference.

2. William Shore was Plaintiff's Vice-President for approximately three years and defrauded them for two years. Plaintiff alleges that it did not know of William Shore's scheme during the course of his employment and only learned about it after he was terminated for poor performance. Then, after William Shore's employment was terminated, Plaintiff launched an investigation wherein

Plaintiff allegedly learned of an elaborate scheme involving Joseph Heath and HYDS, Inc.

3. HYDS, Inc. is a “materials” supplier that supplied certain items for Plaintiff’s projects.. According to the Complaint, Heath was HYDS, Inc.’s CEO, while Meadows was the owner of HYDS, Inc. “Meadows and/or Heath” allegedly agreed with Plaintiff’s Vice President, Shore, that they would pay Shore kickbacks in exchange for Shore approving their prices.

4. Plaintiff alleged generally that Heath caused HYDS, Inc. to submit invoices with inflated prices to Plaintiff. Interestingly, the Complaint never alleges that Heath paid Shore any kickbacks on the projects.

5. Plaintiff described a scheme that, if true, is a pay-to-play rule, established by Shore, in order for companies like HYDS, Inc. to be awarded certain projects. Plaintiff failed to explain how it did not notice such obviously inflated prices constantly submitted by HYDS, Inc. for over two years, and only found irregularities after Shore’s employment was terminated for bad performance. Plaintiff further failed to allege any processes it had in place to review and authorize HYDS, Inc.’s invoices for payment, or whether such processes could have detected Shore’s wrongful conduct. As such, Plaintiff has failed to allege reasonable reliance on the invoices submitted by HYDS, Inc.

6. The Complaint includes five claims against Heath: violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), conspiracy, fraud, conversion, and violations of the Tennessee Consumer Protection Act (“TCPA”).

7. Plaintiff’s claims against Joseph Heath are pleaded generally, in broad and conclusory allegations against all defendants. Particularly Plaintiff’s RICO and conspiracy claims, which are alleged against all defendants and do not differentiate between any of the defendants alleged wrongful conduct.

8. Plaintiff’s claims do not withstand the scrutiny required by the Federal Rules of Civil Procedure 12(b)(6) and 9(b). Plaintiff’s RICO, conspiracy, fraud and other fraud-based claims, conversion and TCPA, should be dismissed for failure to meet the particularity standards required by

Rule 9(b).

9. Plaintiff's conversion and TCPA claims should also be dismissed for failure to state a claim under Tennessee law and Rule 12(b)(6).

Thus, as set out fully in the accompanying memorandum, Joseph Heath respectfully requests that the Court dismiss all of Plaintiff's claims against him with prejudice.

Respectfully submitted,

/s/ Don L. Hearn, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day, a true and correct copy of the foregoing was electronically served via the Court's CM/ECF system on the following:

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